

EXHIBIT 10



COPY

GARY MANSFIELD

April 27, 2006

Page 1

1 UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF MASSACHUSETTS

3 C.A. NO. 04-12164-MLW

4

5

6 ERIC SOUVANNAKANE,

7 Plaintiff

8 v.

9 SEARS, ROEBUCK AND CO.,

10 Defendant

11

12

13

14

15 DEPOSITION OF: GARY MANSFIELD

16 Law Offices of Kurt Olson

17 500 Federal Street

18 Andover, Massachusetts

19 April 27, 2006 10:00 a.m.

20

21

22

23 Charlotte C. Rosati

24 Registered Professional Reporter

CATUOGNO COURT REPORTING SERVICES

Springfield, MA Worcester, MA Boston, MA Lawrence, MA Providence, RI

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1 APPEARANCES:

2

3 Representing the Plaintiff:

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8 BY: KURT OLSON, ESQ.

9

10

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16 BY: CHRISTINE M. NETSKI, ESQ.

17

18

19 Representing Gary Mansfield:

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23 (617) 350-0950

24 BY: JOHN J. CLOHERTY III

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I N D E X

2

3 WITNESS: GARY MANSFIELD

4

5 EXAMINATION BY: PAGE:

6

Mr. Olson 4

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Ms. Netski 27

9

Mr. Cloherty 28

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11

12

13 E X H I B I T S PAGE:

14

15 No. 1 Defendant Gary Mansfield's 15
16 Answers To Plaintiff's First
17 Set Of Interrogatories

18

No. 2 ENPRO Services, Inc. 23
19 Invoice, 2pp

20

No. 3 Sears Asset Protection 24
21 Department Incident Report,
22 1pp

23

24

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1 STIPULATIONS

2 It is agreed by and between
3 the parties that all objections, except
4 objections as to the form of the questions, are
5 reserved and may be raised at the time of trial
6 for the first time.

7 It is further agreed by and
8 between the parties that all motions to strike
9 unresponsive answers are reserved and may be
10 raised at the time of trial for the first time.

11 It is further agreed by and
12 between the parties that the reading and signing
13 of the deposition by the deponent my be signed
14 under the pains and penalties of perjury within
15 (30) thirty days of receipt.

16 - - -

17 GARY MANSFIELD, having been
18 satisfactorily identified and duly sworn by the
19 Notary Public, deposes and states as follows:

20
21 EXAMINATION BY MR. OLSON:

22
23 Q. Good morning, Officer Mansfield. As
24 you know, my name is Kurt Olson, and I represent

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1 record or a log of dispatchers kept by the
2 Saugus Police Department?

3 A. I don't know what their recordkeeping
4 is.

5 Q. Okay. When you arrived at Sears
6 Automotive on the 17th of October, 2003, what
7 did you do?

8 A. I entered the building.

9 Q. Okay. Which building. The Sears
10 Automotive building?

11 A. Yes.

12 Q. Okay. And with whom did you meet?

13 A. I don't recall the name. It was a
14 female.

15 Q. Okay. Do you recall whether it was a
16 loss prevention officer?

17 A. My understanding, it was.

18 Q. Okay. And what did you discuss with
19 this person?

20 A. She told me why I was called up
21 there.

22 Q. And what did she say as to why you
23 were called up there?

24 A. My recollection is that she said that

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1 they had an incident with a past employee who
2 had come on the property and caused property
3 damage, and that they wanted it adjudicated.

4 **Q. Okay. And what did you observe after**
5 **having this conversation with the female**
6 **employee of Sears?**

7 A. I obtained a voluntary statement from
8 one of the employees who stated that he
9 witnessed the event.

10 **Q. So you spoke to the person that I will**
11 **identify as a loss prevention officer. You**
12 **spoke to her, and then spoke to a witness that**
13 **the loss prevention person told you to speak to;**
14 **is that correct?**

15 A. Yes.

16 **Q. Okay. And do you remember that**
17 **person's name?**

18 A. An Hispanic name. It doesn't come to
19 me right now.

20 **Q. Might it have been Hernandez?**

21 A. It might have been.

22 **Q. Okay. And once you finished your**
23 **conversation with Mr. Hernandez and the loss**
24 **prevention person, did you go to observe the**

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1 you ask the question of the witness.

2 Q. (By Mr. Olson) Didn't you make a
3 determination that you had probable cause to
4 believe that a crime had been committed?

5 A. Yes.

6 Q. Based on what information?

7 A. The information that I was given by
8 the Sears employees.

9 Q. Okay. And when you refer to the
10 information given by the Sears employees, you're
11 talking about the statements made by the loss
12 prevention officer?

13 A. And the witness, yes.

14 Q. Okay. And you said you received from,
15 who we will assume is Mr. Hernandez, a written
16 statement?

17 A. That is my recollection, yes.

18 Q. Okay. On that day, did you observe--
19 I believe you already answered this, but I'll
20 ask, did you observe any damage to the concrete
21 floor in the Sears Automotive building?

22 A. No.

23 Q. Okay. Turning back to the Exhibit
24 No. 1, one more time, would you please turn to

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1 Q. And so would it be fair to say you
2 didn't receive any substantive information in
3 the investigation from anyone other than
4 Miss Coviello and Mr. Hernandez?

5 A. That's my recollection and my
6 understanding, yes.

7 | Q. Okay.

8 MS. NETSKI: That's all I
9 have.

10

11 EXAMINATION BY MR. CLOHERTY:

12

13 Q. Sir, you were asked on direct
14 examination by Mr. Olson about the value of
15 three thousand dollars assigned as the property
16 damage. Do you recall that line of questioning,
17 sir?

18 A. Yes, sir.

19 Q. And from where was that three
20 thousand-dollar figure derived?

21 A. That was a total value of the damage
22 including the clean-up.

23 Q. Okay. And how were you informed or
24 how did you determine that value, sir?

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1 A. I was given that value by the
2 complainant, Miss Coviello.

3 Q. And, in fact, looking at what was
4 marked as Exhibit No. 2, it appears to be an
5 invoice of services from a clean-up company. Do
6 you see that, sir?

7 A. Yes, sir.

8 Q. Have you ever seen that before?

9 A. Just earlier today.

10 Q. Okay. And on page 2 of that document,
11 there's a total value of clean-up on that
12 invoice. Did you see that, sir?

13 A. Yes, sir.

14 Q. And what is that amount?

15 A. Four thousand four hundred
16 eighty-three dollars and sixty-five cents.

17 Q. Earlier, sir, you were asked on direct
18 examination about a probable cause
19 determination. Do you recall that line of
20 questioning, sir?

21 A. Yes, sir.

22 Q. In your role as a responding officer
23 in this case, did you effect any arrests as a
24 result of your investigation?

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1 A. I did not.

2 Q. And why not?

3 A. I brought this matter before the court
4 as requested for a probable cause hearing. The
5 information was given to me, and my
6 understanding met the elements of the crime, and
7 the next step in that is to bring it before a
8 magistrate and have him adjudicate it.

9 Q. And how did that process take place,
10 sir?

11 A. I submitted a request for a hearing.

12 Q. And accompanying the request for a
13 hearing, what did you submit, sir?

14 A. My report and witness statements.

15 Q. And do you know if that hearing took
16 place, sir?

17 A. Umm. I believe it did.

18 Q. Okay. Did you have any further
19 participation in this matter after submitting
20 the request for a hearing?

21 A. My best recollection is that I did
22 not.

23 MR. CLOHERTY: I don't have
24 anything further.